

# ORIGINAL

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CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY \_\_\_\_\_ DEPUTY

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.**

8 Plaintiff.

VS

RALPHS GROCERY COMPANY  
d/b/a FOOD 4 LESS.

3 Defendant.

'07 CV 1858 J.

RRB

Case No.:

## **COMPLAINT—TITLE VII**

- Retaliation

## JURY TRIAL DEMAND

## **NATURE OF THE ACTION**

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of retaliation, and to provide appropriate relief to Pamela Lovell, who was adversely affected by such practices. As set forth in this Complaint, Plaintiff

1 alleges that Defendant retaliated against Ms. Lovell when she opposed  
2 discriminatory practices and refused to sign a settlement agreement wherein she  
3 *inter alia* waived her right to file a Charge with the Commission.

4 **JURISDICTION AND VENUE**

5 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451,  
6 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to  
7 Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended,  
8 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights  
9 Act of 1991, 42 U.S.C. § 1981a.

10 2. The employment practices alleged to be unlawful were and are now  
11 being committed within the jurisdiction of the United States District Court for the  
12 Southern District of California.

13 **PARTIES**

14 3. Plaintiff, the U.S Equal Employment Opportunity Commission  
15 ("EEOC" or "Commission"), is the agency of the United States of America  
16 charged with the administration, interpretation and enforcement of Title VII, and is  
17 expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII,  
18 42 U.S.C. § 2000e-5(f)(1) and (3).

19 4. At all relevant times, Defendant, Ralphs Grocery Company d/b/a  
20 Food 4 Less (the "Employer"), has continuously been a California corporation  
21 doing business in the State of California and the City of El Centro, and has  
22 continuously had at least 15 employees.

23 5. At all relevant times, Defendant Employer has continuously been an  
24 employer engaged in an industry affecting commerce within the meaning of  
25 Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

26 **STATEMENT OF CLAIMS**

27 6. More than thirty days prior to the institution of this lawsuit, Pamela  
28 Lovell filed a charge with the Commission alleging violations of Title VII by

1 Defendant Employer. All conditions precedent to the institution of this lawsuit  
2 have been fulfilled.

3        7. Since December, 2005, Defendant Employer has engaged in unlawful  
4 employment practices at its El Centro, California facility, in violation of  
5 Section 704 of Title VII, 42 U.S.C. § 2000e-3, by retaliating against Pamela Lovell  
6 by suspending her and terminating her from her employment for having  
7 complained of discrimination and having opposed discrimination, among other  
8 things, by providing information to the Commission, and by providing information  
9 to a co-worker's husband, and having refused to sign a settlement agreement  
10 wherein she *inter alia* waived her right to file a Charge with the Commission.

11        8. The effect of the practices complained of in paragraph 7 above has  
12      been to deprive Pamela Lovell of equal employment opportunities and otherwise  
13      adversely affect her status as an employee, because of her participation in the  
14      protected activity and in opposing discriminatory practices of Defendant  
15      Employer.

16        9.      The unlawful employment practices complained of in paragraph 7  
17 above were and are intentional.

18        10. The unlawful employment practices complained of in paragraph 7  
19 above were and are done with malice or with reckless indifference to the federally  
20 protected rights of Pamela Lovell.

## **PRAYER FOR RELIEF**

22 Wherefore, the Commission respectfully requests that this Court:

23       A.     Grant a permanent injunction enjoining Defendant Employer, its  
24 officers, successors, assigns, and all persons in active concert or participation with  
25 it, from engaging in retaliation.

26 B. Order Defendant Employer to institute and carry out policies,  
27 practices, and programs which eradicate the effects of its past and present unlawful  
28 employment practices.

1 C. Order Defendant Employer to make whole Pamela Lovell, by  
2 providing appropriate backpay with prejudgment interest, in amounts to be  
3 determined at trial, and other affirmative relief necessary to eradicate the effects of  
4 its unlawful employment practices, including but not limited to reinstatement  
5 and/or restoration of the compensation, seniority and benefits she would have  
6 enjoyed had she not been terminated.

7 D. Order Defendant Employer to make whole Pamela Lovell, by  
8 providing compensation for past and future pecuniary losses resulting from the  
9 unlawful employment practices described in paragraph 7 above, in amounts to be  
10 determined at trial.

11 E. Order Defendant Employer to make whole Pamela Lovell by  
12 providing compensation for past and future nonpecuniary losses resulting from the  
13 unlawful practices complained of in paragraph 7 above, in amounts to be  
14 determined at trial.

15 F. Order Defendant Employer to pay Pamela Lovell punitive damages  
16 for its malicious and reckless conduct described above, in amounts to be  
17 determined at trial.

18 G. Grant such further relief as the Court deems necessary and proper in  
19 the public interest.

H. Award the Commission its costs of this action.

## JURY TRIAL DEMAND

22 The Commission requests a jury trial on all questions of fact raised by its  
23 complaint.

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2 Dated: September 24<sup>th</sup>, 2007  
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Respectfully submitted,  
U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION

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General Counsel

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Deputy General Counsel

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Anna Y. Park  
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**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I.**     (a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.